

95 961057

A. G. Contract No. KR95 2012TRN
ADOT ECS File: JPA 95-161
Project: RRS-STP-000-6(088)P
TRACS: SR102 01C
Section: Agua Caliente Road
@ SPTCRR
AAR/DOT No. 741-759-S

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
MARICOPA COUNTY, ARIZONA

THIS AGREEMENT is entered into 15 November, 1995,
pursuant to Arizona Revised Statutes, Sections 11-951 through
11-954, as amended, between the STATE OF ARIZONA, acting by and
through its DEPARTMENT OF TRANSPORTATION (the "State") and
MARICOPA COUNTY, ARIZONA acting by and through its BOARD OF
SUPERVISORS (the "County").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes
Section 28-108 and 28-112 to enter into this agreement and has
by resolution, a copy of which is attached hereto and made a
part hereof, resolved to enter into this agreement and has
delegated to the undersigned the authority to execute this
agreement on behalf of the State.

2. The County is empowered by Arizona Revised Statutes
Section 11-251 to enter into this agreement and has by
resolution, a copy of which is attached hereto and made a part
hereof, resolved to enter into this agreement and has
authorized the undersigned to execute this agreement on behalf
of the County.

3. The Arizona Corporation Commission is empowered by
Arizona Revised Statutes Section 40-337 to participate in the
funding of this project, and has authorized funds for this
project.

4. Congress has authorized appropriations for the
erection of automatic warning signals, automatic gate arms,
plank crossings, pavement markings, and other appurtenances.

NO. <u>20297</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>11/15/95</u>
<u>Jose Lee Hull</u> Secretary of State
By <u>Vicky V. Greenwood</u>

5. Such project within the boundary of the County has been selected by the County; the field survey of the project has been completed; and the plans, estimates and specifications have been prepared and, as required, submitted to the Federal Highway Administration ("FHWA") for its approval.

6. The only interest of the State in the project is in the acquisition of federal funds for the use and benefit of the County by reason of federal law and regulations under which funds for the project are authorized to be expended.

7. The work embraced in this agreement and the estimated cost are as follows: Upgrade Railroad Crossing

Preliminary and Construction Engineering	\$ 6,000.00
Install Flashers and Gates (by railroad)	\$ 125,370.00
Total Project	\$ 131,370.00
Federal Aid Funds @ 90% of \$6,000.00	\$ 5,400.00
Federal Aid Funds @ 94.3% of \$125,370.00	\$ 118,224.00
AZ Corp. Comm. Funds @ 10% of \$6,000.00	\$ 600.00
AZ Corp. Comm. Funds @ 5.7% of \$125,370.00	\$ 7,146.00
Maricopa County Funds	\$ 0.00

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State shall submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for construction.

a. If such project is approved for construction by FHWA and the funds are available for construction of the project, the State with the aid and consent of FHWA will authorize the Railroad Company to proceed with the work covered by the State-Railroad Agreement and will request the federal funds.

b. Should some unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for in this agreement, the State shall not be obligated to incur any expenditure in excess of the amount of the County's deposit unless and until so authorized in writing by the County.

2. The County shall acquire, without cost to the State, the necessary right-of-way and hereby certifies that all necessary rights-of-way have been or will be acquired.

3. Once acquired, the County shall remove from the County right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the roadway, and hereby certifies that all obstructions and encroachments have been or will be removed therefrom.

4. The County shall not permit or allow any encroachments, except those authorized by permit, upon, or private use of, the County right of way. In the event of any unauthorized encroachment or improper use, the County shall take all necessary steps to remove or prevent any such encroachment or use; failing in which the State shall have the right to proceed with the removal or prevention thereof, the cost of such removal or prevention to be borne by the County.

5. Upon completion of construction, the County shall provide for, at its own cost and as an annual item in its budget, proper maintenance; such maintenance (exclusive of maintenance by the Railroad Company of its facilities) to include, but not be limited to, traffic signals, signs, islands, curbs and markings necessary for the purpose of regulating, warning and guiding traffic.

6. The County shall mark and sign railway-highway grade crossings in accordance with the requirements of the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways, within 45 days after the railroad completes the work.

7. By such regulation as it may by ordinance provide, the County shall regulate parking and not permit vehicles to be left on the street in any manner other than at and parallel with the curb and to restrict parking so as to prevent conflicts with moving traffic.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement, nor for any resulting construction project. The County, in regard to the County's relationship with the State only, assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims. Such assumption of the responsibility by the County for the benefit

of the State in no way acts as a waiver by the County for the benefit of the railroad company or any responsibility the railroad company has in the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost overruns and construction claims. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the County and that the County hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the County, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation and attorneys' fees.

2. The cost of the design, construction and construction engineering work covered by this agreement is to be borne by FHWA, Arizona Corporation Commission and the County, each in the proportion prescribed or as fixed and determined by FHWA as stipulated in this agreement. Therefore, in the event that funds to match federal funds are not made available by the Corporation Commission, the County agrees to furnish and provide the State with County funds in an amount equal to the difference between the total cost of the work provided for in this agreement and the amount of federal aid received.

3. This agreement shall remain in force and effect until completion of the work herein embraced; provided, however, that any provisions in this agreement for maintenance shall be perpetual, unless assumed by another competent governmental entity.

4. This agreement shall become effective upon filing with the Secretary of State.

5. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

6. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

7. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

8. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007

Maricopa County
Director of Transportation
2901 West Durango Street
Phoenix, AZ 85009


9. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.


IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

MARICOPA COUNTY, ARIZONA

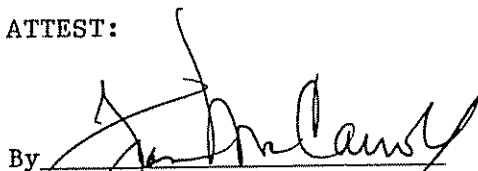
STATE OF ARIZONA

Department of Transportation

By 
TOM RAWLES, Chairman
Board of Supervisors

By 
PETER L. ENO
Contract Administrator


ATTEST:

By 
FRAN MCCARROLL
Clerk of the Board

RESOLUTION

BE IT RESOLVED on this 25th day of August 1995, that I, the undersigned LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement with Maricopa County for the purpose of defining responsibilities for the design, construction and maintenance of improvements to Agua Caliente Road @ the SPTCRR in the County.

Therefore, authorization is hereby granted to draft said agreements which, upon completion, shall be submitted to the Contract Administrator for approval and execution.


for LARRY S. BONINE
Director

MARICOPA COUNTY BOARD OF SUPERVISORS

AGENDA FORM

Contract/Lease for ☐ NEW ☐ RENEWAL ☐ AMENDMENT ☐ CANCELLATIONLOW ORG. NO. _____ DEPARTMENT: Transportation/PlanningENCUMBRANCE NO. 94-1057 AGENCY: OperationsCONTROL NUMBER: TD 187-95CONTROL NUMBER: PW 822

1. BRIEF DESCRIPTION OF PROPOSAL AND REQUESTED BOARD ACTION: Approval is sought to enter into an Intergovernmental Agreement with the Arizona Department of Transportation (ADOT) for the purpose of securing Federal funds for the upgrade of the Southern Pacific Railroad crossing at Agua Caliente, Work Order No. 82708.

The project consists of installing a mechanical gate and flashing lights at this crossing.

Federal funds will pay for up to 94% of the project costs and the remaining 6% of the project costs will be borne by the Arizona Corporation Commission.

The County's responsibility under the agreement is to obtain the necessary right-of-way, contract for the installation of the railroad crossing improvements, and perform regular maintenance after the construction.

Supervisory Districts 4 and 5.

Please return an executed copy to
the Clerk of the Board of Supervisors.

2. Compliance with Maricopa
County Procurement Code

10
article

HCL-1003
paragraph

Renate Lewis
Procurement Officer

SOLE SOURCE JUSTIFICATION:

3. CONTINUED FROM MEETING OF
DISCUSSED IN MEETING OF

4. ☐ THIS DEPARTMENT WILL CAUSE PUBLICATION
☐ CLERK OF THE BOARD TO CAUSE PUBLICATION

5. MOTION: It is moved that the Maricopa County Board of Supervisors: approve and execute an Intergovernmental Agreement with the Arizona Department of Transportation for the purpose of securing Federal funds for the upgrade of the Southern Pacific Railroad crossing at Agua Caliente, Work Order No. 82708. Federal funds comprise 94% of the project costs and the Arizona Corporation Commission will fund the remaining 6%. After construction the County will maintain the mechanical gate and flashing lights at this crossing.

6. FINANCIAL: ☒ Expenditure ☐ Revenue ☒ Budgeted ☐ Contingency ☐ Budgeted Amendment ☐ Transfer ☐ Grant or Other

0
TOTAL

ROAD-232
FUND

Sharon Christensen
FINANCIAL OFFICER S. Wilson

9/19/95
DATE

7. PERSONNEL:

PERSONNEL DIRECTOR

DATE

8. DEPARTMENT: Transportation - 6400

Thomas R. Buick
ACTION RECOMMENDED BY Tom Buick

9/18/95
DATE

9. MATERIALS MANAGEMENT:

A. MATERIALS MGMT. DIR.

DATE

B. W/MBE PROGRAMS

DATE

10. LEGAL: Approved as to form and within the powers and authority granted under the laws of the state of Arizona to the Maricopa County Board of Supervisors.

James Minter
DEPUTY COUNTY ATTORNEY J. Minter

9/19/95
DATE

11. OTHER:

SIGNATURE

DATE

12. APPROVED FOR AGENDA: Associate County Administrator,
Operations

L. Schmitt
APPROVING OFFICIAL L. Schmitt

9-18-95
DATE

13. OTHER:

SIGNATURE

DATE

15. RECOMMENDATION OF COUNTY MANAGER:

☒ Approved ☐ Disapproved

Comments:

14. BOARD OF SUPERVISORS: Action taken:

☒ Approved ☐ Amended ☐ Disapproved ☐ Deleted

Continued to:

(Date and type of meeting)

Santhosh
CLERK OF THE BOARD

10/18/95
DATE

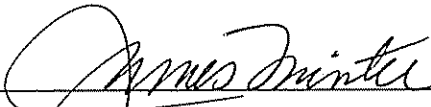
David L. Schmitt
COUNTY MANAGER

10/18/95
DATE

APPROVAL OF THE MARICOPA COUNTY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and MARICOPA COUNTY and declare this agreement to be in proper form and within the powers and authority granted to the County under the laws of the State of Arizona.

DATED this 19 day of Sept, 1995.



County Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

MAIN PHONE : 542-5025

TELECOPIER : 542-4085

GRANT WOODS
ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A. G. Contract No. KR95-2012-TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. §11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 7th day of November, 1995.

GRANT WOODS
Attorney General

A handwritten signature in dark ink, appearing to read "James R. Redpath", is written over a horizontal line.

JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:lsr
8957G/60